

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MAURICE LAFONTAINE,

Plaintiff,

v.

MULTIBAND NC, INC., et al.,

Defendants.

Case No. 10-cv-12280

HONORABLE STEPHEN J. MURPHY, III

ORDER DISCHARGING SHOW CAUSE ORDER
(docket no. 3) **AND EXTENDING TIME FOR**
SERVICE OF PROCESS UNDER FED. R. CIV. P. 4(m)

On October 20, 2010, the Court issued an order requesting Maurice LaFontaine to show cause why this action should not be dismissed for failure to prosecute, pursuant to Fed. R. Civ. P. 23(e) and E.D. Mich. LR 41.2. Show Cause Order, Docket No. 3. LaFontaine timely filed a response to the Court's order. LaFontaine's Resp., Docket No. 5.

Two reasons are given for the delay in serving process in this case. First, LaFontaine allegedly endured a month of delay after the filing of the lawsuit because some of the defendants did not adhere to a tentative agreement with defense counsel based in Michigan for representation in this matter. *Id.* at 1–2. The defense lawyer LaFontaine dealt with appears to have promised that in-person service of process would be waived by the defendants. *Id.* at 2. Accordingly, the formal process for serving the corporate defendants was not instigated until a much later date. *Id.* at 2–3.

Second, two of the defendants — Multiband NC, Inc. and Michigan Microtech, Inc. — were not timely served by the Isabella County, Michigan Sheriff's Department due to an oversight by the department. *Id.* at 3. As of today's date, counsel for those defendants

have entered an appearance in this case and filed an answer to LaFontaine's complaint. Ans. & Affirmative Defenses, Docket No. 4.

The Court “must extend the time for service for an appropriate period” if the plaintiff can show “good cause for the failure.” Fed. R. Civ. P. 4(m). Whether or not good cause exists is a determination left to “the sound discretion of the district court,” and can only be reversed for an abuse of discretion. *Habib v. Gen. Motors Corp.*, 15 F.3d 72, 73 (6th Cir. 1994). In this case, the Court concludes that the confusing signals sent by the various counsel defendants’ contacted in the early stages of this case, along with the delay of the Isabella County authorities in effectuating service on the only two unserved defendants remaining, constitutes “good cause” for the extension of time to serve process. Accordingly, the Court will grant LaFontaine’s request for additional time to serve process.

WHEREFORE, it is hereby **ORDERED** that the Court’s Show Cause Order of October 20, 2010 is hereby **DISCHARGED**. Furthermore, LaFontaine’s Request for Extension of Summons (docket no. 5) is hereby **GRANTED**. LaFontaine shall have **THIRTY** (30) days from entry of this Order in which to formally serve the remaining defendants in this case.

SO ORDERED.

s/Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: November 16, 2010

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on November 16, 2010, by electronic and/or ordinary mail.

Alissa Greer
Case Manager